

From: [David Abell](#)
To: [Lubetsky, Jonathan](#)
Subject: Re: EPA-HQ-2017-010177 - Extension Unusual Circumstance
Date: Friday, November 10, 2017 3:32:49 PM

Jonathan,

Yes, this captures it.

Thank you,



David Abell
Senior Paralegal
Environmental Law Program
2101 Webster St., Suite 1300
Oakland, CA 94612
Phone: (415) 977-5764
Fax: (510) 208-3140

Represented by UAW Local 2103: Sierra Employee Alliance - For A Sustainable Sierra Club

On Tue, Nov 7, 2017 at 10:41 AM, Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov> wrote:

David,

Per our conversation yesterday, we will continue to process documents that may have been collected in FOIAs with overlapping content using the narrowed parameters you provided in your email on October 24, 2017. We hope to have our first production of those documents before the end of the month. At the same time we will also be submitting a new search request for documents using the same parameters in our October 24, 2017 email. Once we have collected the documents for the narrowed search, and or started delivering documents from that collection, we can have a discussion as to whether additional terms should be searched in order to satisfy your request. As discussed, narrowing the search to the parameters provided now, does not eliminate the ability for you to broaden the collection scope within the initial parameters of your request. Please confirm that this captures our conversation.

Thank you for your patience,

Jonathan

From: David Abell [<mailto:david.abell@sierraclub.org>]
Sent: Monday, November 06, 2017 1:24 PM
To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>
Subject: Re: EPA-HQ-2017-010177 - Extension Unusual Circumstance

yes.

David Abell

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On Mon, Nov 6, 2017 at 10:23 AM, Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov> wrote:

Are you free before 2:00 my time, as in the next 30 minutes?

From: David Abell [mailto:david.abell@sierraclub.org]

Sent: Monday, November 06, 2017 12:54 PM

To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>

Subject: Re: EPA-HQ-2017-010177 - Extension Unusual Circumstance

yes, also working from home today.

Let me know if there is a convenient time to chat.

510.506.4514

David Abell

Senior Paralegal

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On Mon, Nov 6, 2017 at 7:22 AM, Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov> wrote:

David,

Are you around to talk today?

Thank you,

Jonathan

From: David Abell [mailto:david.abell@sierraclub.org]

Sent: Friday, November 03, 2017 12:21 PM

To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>

Cc: Purifoy, Tiffany <Purifoy.Tiffany@epa.gov>

Subject: Re: EPA-HQ-2017-010177 - Extension Unusual Circumstance

I am working from home today, please feel free to call me at 510.506.4514.

Thank you,

David Abell

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On Thu, Nov 2, 2017 at 1:11 PM, Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov> wrote:

David,

This is a follow up to a voicemail I left you earlier today. We have reviewed your follow-up regarding FOIA request EPA-HQ-2017-010177. We are aware of other FOIA requests that may have collected some overlapping content, and we have begun reviewing documents that were collected already using the parameters you provided below. We hope to have our first production of those documents before the end of the month.

EPA still believes that the collection using the broader terms is improper and we would like to propose the collection of the documents using the refined set of terms you laid out below and custodians likely to have responsive records in the regions and HQ offices. A broader collection, even if proper, would likely collect such a voluminous set of records that it would take a significantly longer amount of time to process to even be at a stage for us to begin review than the narrower search. Once we have collected the documents for the narrowed search, and or started delivering documents from that collection, we can have a discussion as to whether additional terms should be searched in order to satisfy your request.

Please let us know if you are OK with this approach by email or phone.

Thank you,

Jonathan Lubetsky

(202) 564-3166

From: David Abell [mailto:david.abell@sierraclub.org]

Sent: Tuesday, October 24, 2017 3:54 PM

To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>; Purifoy, Tiffany

<Purifoy.Tiffany@epa.gov>

Subject: Re: EPA-HQ-2017-010177 - Extension Unusual Circumstance

Mr. Lubetsky, Ms. Purifoy,

Following up on our October 3, 2017 conversation, and in an effort to expedite and potentially narrow the scope of documents responsive to our August 3, 2017 FOIA request, we request that you **prioritize** the following documents. We do not, however, withdraw our request for all documents responsive to that August 3, 2017 request.

Instead, we request that EPA prioritize the production of ***all records and/or communications related to Regional Haze***—including any communications or activities on state-specific rules, rule reconsiderations, or second planning period state implementation plans—***and related to the following entities:***

a. For Region 3 - Pennsylvania:

- i. Homer City
- ii. Bruce Mansfield
- iii. Montour
- iv. New Castle
- v. Cheswick
- vi. Brunner Island
- vii. Conemaugh
- viii. Keystone
- ix. Portland
- x. Shawville
- xi. Sunbury
- xii. NRG Power
- xiii. First Energy

- xiv. PPL
- xv. GenOn Northeast
- xvi. Sunbury Generation
- xvii. Any other coal-fired electric generating unit in Pennsylvania
- xviii. Any and/or any other entity or individual representing those entities

b. Region 6 - Arkansas

- i. White Bluff
- ii. Independence
- iii. Flint Creek
- iv. Entergy
- v. American Electric Power (“AEP”)
- vi. Southwestern Electric Power Company (“SWEPCO”)
- vii. Arkansas Electric Cooperative Corporation
- viii. Energy and Environmental Alliance of Arkansas
- ix. Any other coal-fired electric generating unit in Arkansas
- x. Any and/or any other entity or individual representing those entities

c. Region 7 - State of Nebraska

- i. Gerald Gentleman
- ii. North Omaha
- iii. Sheldon
- iv. Nebraska City

District

v. Nebraska Public Power

vi. Omaha Public Power

vii. Hastings

viii. Any other coal-fired
electric generating unit in Nebraska

ix. Any and/or any other
entity or individual representing those entities

d. Region 8 - States of Utah and Wyoming

i. Hunter

ii. Huntington

iii. Deseret Generation

iv. PacifiCorp

v. Dave Johnson

vi. Naughton

vii. Wyadak

viii. Jim Bridger

If you have any questions, please let me know.

Sincerely,

David Abell

Senior Paralegal

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On Wed, Oct 18, 2017 at 5:53 AM, Lubetsky, Jonathan
<Lubetsky.Jonathan@epa.gov> wrote:

David,

I just wanted to check in and see if you have any follow up yet regarding our conversation two weeks ago. We are reviewing the documents that have already been collected as discussed. Please let me know if you would like to talk again or if you have any additional clarifications based on our conversation so that we can collect the reaming portion of the documents.

Thank you,

Jonathan

From: David Abell [mailto:david.abell@sierraclub.org]

Sent: Monday, October 02, 2017 5:01 PM

To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>

Subject: Fwd: EPA-HQ-2017-010177 - Extension Unusual Circumstance

Hello Jonathan,

It appears these 2 times work best: tomorrow at 12 pm PST/3 pm EST, or Wednesday at 10 am PST/1 pm EST.

Please let me know which time works best for you; please send me the call in number too. I will distribute the cal invite call details to my colleagues: Josh Smith and Gloria Smith who will be joining the call.

Sincerely,

David Abell

Senior Paralegal

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----- Forwarded message -----

From: hamilton.sabrina@epa.gov <hamilton.sabrina@epa.gov>

Date: Thu, Sep 28, 2017 at 10:20 AM

Subject: EPA-HQ-2017-010177 - Extension Unusual Circumstance

To: "david.abell@sierraclub.org" <david.abell@sierraclub.org>

Re: Freedom of Information Act Request No. EPA-HQ-2017-010177

Dear David Abell,

This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA or Agency) on August 3, 2017, in which you requested records and/or communications related to the Regional Haze program.

Given the scope of the request, EPA anticipates that the response will require significant amount of EPA's resources and time to search for, and appropriately examine the voluminous amount of records to complete this request, and to search for and collect the requested records from multiple EPA offices that are separate from the office processing the request.

Pursuant to 40 C.F.R. § 2.104(d), and extension of time required to respond to your request is necessary. The new due date is September 28, 2017, ten working days from September 14, 2017.

We would like to set up a time to speak with you and Josh Smith regarding this FOIA request and related requests. Please contact Jonathan Lubetsky who can be reached at lubetsky.jonathan@epa.gov, or (202) 564-3166 to set up a time to further discuss your request.

18-cv-00722